

ESTTA Tracking number: **ESTTA634007**

Filing date: **10/20/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92056552
Party	Plaintiff ActiMuse, LLC
Correspondence Address	DANIEL J CHALKER CHALKER FLORES LLP 14951 N DALLAS PARKWAY, SUITE 400 DALLAS, TX 75254 UNITED STATES ecortez@chalkerflores.com, dchalker@chalkerflores.com, jflores@chalkerflores.com, docket@chalkerflores.com, cminchillo@chalkerflores.com
Submission	Other Motions/Papers
Filer's Name	Daniel J. Chalker
Filer's e-mail	dchalk- er@chalkerflores.com,cminchillo@chalkerflores.com,docket@chalkerflores.com
Signature	/Daniel J. Chalker/
Date	10/20/2014
Attachments	Pet's Resp to Board Order 102014.pdf(93883 bytes) Affidavit of D Chalker 102014.pdf(130529 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ACTIMUSE, LLC,	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92056552
	§	
ADDICTION NV, LLC	§	U.S. Registration No. 4,089,155
	§	Mark: ADDICTION NV
Registrant/Respondent.	§	COSMETICS
	§	
	§	
	§	

**RESPONSE TO ORDER OF AUGUST 19, 2014; REQUEST FOR
ORDER TO SHOW CAUSE, OR, IN THE ALTERNATIVE,
MOTION TO DISMISS WITHOUT PREJUDICE OR
AMEND PETITION TO CANCEL**

ACTIMUSE, LLC, Petitioner, by and through its undersigned counsel, hereby submits its response to the Board's Order of August 19, 2014 and files this its Request for Order to Show Cause, or, in the Alternative, Motion to Amend Petition to Cancel.

I. THE BOARD'S ORDER OF AUGUST 19, 2014

The Board issued an Order allowing the parties until sixty days from August 19, 2014 in which to execute a settlement agreement and file with the Board the appropriate documents disposing of the issues. Petitioner presented a proposed Voluntary Cancellation of Registration to Registrant/Respondent's attorney of record. (*See Exhibit A at 2.*) Registrant/Respondent's attorney of record advised counsel for Petitioner that the entity of ADDICTION NV, LLC no longer exists and as a result no one has authority to sign or agree to the proposed Voluntary Cancellation of Registration. (*See Exhibit A at 2.*) Petitioner filed documents with the Board on

June 16, 2014 providing evidence that Registrant/Respondent ADDICTION NV, LLC is no longer conducting business and the California Secretary of State shows the entity to be cancelled. (See Response to Board's Order filed June 16, 2014, Exhibits A at 2 and A-2). Registrant's status with the California Secretary of State is still "CANCELED" (Exhibits A at 2 and A-1).

II. REQUEST FOR ORDER TO SHOW CAUSE

Based on the evidence submitted to the Board showing that the California Secretary of State cancelled the entity ADDICTION NV, LLC, Petitioner requests the Board issue a show cause order as to why the Registered Mark ADDICTION NV COSMETICS, Registration No. 4,089,155, should not be canceled.

Petitioner requests that the Board cancel the Mark ADDICTION NV COSMETICS, and/or issue another show cause order as to why the Mark should not be canceled.

III. PETITIONER'S ALTERNATIVE MOTIONS

In the alternative, Petitioner requests: (1) dismiss Cancellation No. 92056552 without prejudice and allow Petitioner to file a Petition to Cancel based on abandonment; or (2) the Board allow Petitioner to amend its Petition to Cancel to add a cause of action of abandonment, reopen the case and set new deadlines for the limited purpose of discovery and dispositive motions regarding the cause of action of abandonment.

Respectfully submitted,

Dated: October 20, 2014

CHALKER FLORES, LLP

By: /s/ Daniel J. Chalker

Daniel J. Chalker

State Bar No. 00794951

14951 N. Dallas Parkway, Suite 400

Dallas, Texas 75254

(214) 866-0001 (telephone)

(214) 866-0010 (telecopy)

dchalker@chalkerflores.com

ATTORNEYS FOR ACTIMUSE, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing RESPONSE TO BOARD'S ORDER OF AUGUST 19, 2014, REQUEST FOR SHOW CAUSE, OR, IN THE ALTERNATIVE, MOTION TO DISMISS WITHOUT PREJUDICE OR AMEND PETITION TO CANCEL was served on all counsel of record, this the 20th of October, 2014, by sending the same via electronic mail service.

/s/ Daniel J. Chalker

Daniel J. Chalker

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ACTIMUSE, LLC,

Petitioner,

v.

ADDICTION NV, LLC

Registrant/Respondent.

§
§
§
§
§
§
§
§
§
§

Cancellation No. 92056552

U.S. Registration No. 4,089,155

Mark: ADDICTION NV

COSMETICS

EXHIBIT A
AFFIDAVIT OF DANIEL J. CHALKER
IN SUPPORT OF PETITIONER'S RESPONSE TO ORDER OF
AUGUST 19, 2014, REQUEST FOR SHOW CAUSE ORDER, OR, IN THE
ALTERNATIVE, MOTION TO DISMISS WITHOUT PREJUDICE OR
AMEND PETITION TO CANCEL

STATE OF TEXAS

§
§
§

COUNTY OF DALLAS

BEFORE ME, the undersigned notary public, on this day personally appeared DANIEL J. CHALKER, known to me to be the person whose name is subscribed below, and upon his oath, deposed and stated as follows:

"My name is Daniel J. Chalker. I am over the age of twenty-one (21) years, am of sound mind, and have never been convicted of a crime or offense involving moral turpitude. I am fully authorized and competent to execute this Affidavit and am not disqualified by law from making this Affidavit. All facts stated herein are within my personal knowledge, and under penalty of

perjury, I declare they are true and correct.

"I am a founding partner of Chalker Flores, LLP and lead attorney representing Petitioner, Actimuse, LLC, in the above-referenced cancellation proceeding.

"I sent an email communication to Registrant's attorney of record, Nelson Quintero, forwarding a proposed voluntary cancellation of registration.

"Registrant's attorney of record, Nelson Quintero, advised us that the entity of ADDICTION NV, LLC no longer exists and as a result no one has authority to sign or agree to the proposed voluntary cancellation of registration.

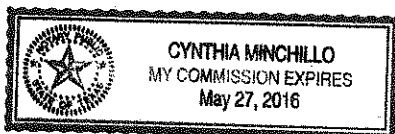
"Exhibit A-1, attached hereto, is a true and accurate print out from the California Secretary of State website taken on October 20, 2014 showing that the legal status of Registrant, Addiction NV Cosmetics, LLC is 'CANCELED'.

"On information and belief based Exhibit A-1, Registrant has ceased business under the name ADDICTION COSMETICS, and has abandoned use of the marks ADDICTION COSMETICS and ADDICTION NV COSMETICS with intent not to resume.

"Affiant says nothing further."


Daniel J. Chalker

SUBSCRIBED AND SWORN TO BEFORE ME BY Daniel J. Chalker on the 20th day of October, 2014, to certify which witness my hand and seal of office.




Notary Public, State of Texas

[Secretary of State](#)[Administration](#)[Elections](#)[Business Programs](#)[Political Reform](#)[Archives](#)[Registries](#)**Business Entities (BE)****Online Services**

- [E-File Statements of Information for Corporations](#)
- [Business Search](#)
- [Processing Times](#)
- [Disclosure Search](#)

Main Page**Service Options****Name Availability****Forms, Samples & Fees****Statements of Information**
(annual/biennial reports)**Filing Tips****Information Requests**
(certificates, copies & status reports)**Service of Process****FAQs****Contact Information****Resources**

- [Business Resources](#)
- [Tax Information](#)
- [Starting A Business](#)

Customer Alerts

- [Business Identity Theft](#)
- [Misleading Business Solicitations](#)

Business Entity Detail

Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Friday, October 17, 2014. Please refer to [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

Entity Name:	ADDICTION NV COSMETICS, LLC
Entity Number:	200921710185
Date Filed:	08/04/2009
Status:	CANCELED
Jurisdiction:	CALIFORNIA
Entity Address:	17530 VONKARMAN AVE
Entity City, State, Zip:	IRVINE CA 92614
Agent for Service of Process:	SCOTT SIMON
Agent Address:	17530 VONKARMAN AVE
Agent City, State, Zip:	IRVINE CA 92614

* Indicates the information is not contained in the California Secretary of State's database.

* **Note:** If the agent for service of process is a corporation, the address of the agent may be requested by ordering a status report.

- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Field Descriptions and Status Definitions](#).

[Modify Search](#)[New Search](#)[Printer Friendly](#)[Back to Search Results](#)[Privacy Statement](#) | [Free Document Readers](#)

Copyright © 2014 California Secretary of State